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Paper No. 9

GATEWAY, INC.
ATTN: SCOTT CHARLES RICHARDSON
610 GATEWAY DRIVE
MAIL DROP Y-04
N. SIOUX CITY SD 57049

In re Application of
Mark Rapaich
Application No. 09/186,817
Filed: November 5, 1998
For: MULTIPLE AUDIO DACS WITH PC
COMPATIBILITY

MAIL

FEB 17 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600
DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the Petition for Withdrawal of Abandonment pursuant to 37 C.F.R. § 1.181(a), filed November 28, 2003. No fee is required.

This application was held as abandoned for failure to file a timely response to the outstanding Office action, mailed December 17, 2002. A Notice of Abandonment has not been mailed.

The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the Practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received", 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c), section II. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner has satisfied the requirements set forth above. The petition is **GRANTED**.

The holding of abandonment is withdrawn.

The application file is being returned to the examiner for update of the Office action as appropriate. From there, the application will be forwarded to the TC2600 Technical Support Staff for mailing of the updated Office action. The period for response will be set to run from the date of the new mailing.


Mark Powell, Director
Technology Center 2600
Communications
(703) 305-4800